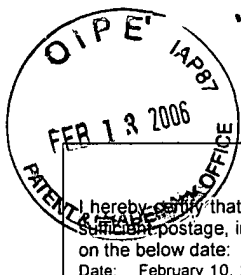


ZPW
DAC



CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:
Date: February 10, 2006 Name: Marc V. Richards (37,921) Signature: *Marc V. Richards*

BRINKS
HOFER
GILSON
& LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Romuald Pawluczyk

Appln. No.: 10/032,145

US Patent No.: 6,975,891

Filed: December 21, 2001

Issue Date: December 13, 2005

For: Raman Spectroscopic System with Integrating Cavity

Attorney Docket No: 11298/4

Examiner: Eric Frank Winakur

Art Unit: 3736

Mail Stop Patent Ext.
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Request for Reconsideration of Prior Request for Reconsideration of Patent Term Adjustment (in dupl.)
☒ Return Receipt Postcard

Fee calculation:

- ☒ No additional fee is required.
☐ Small Entity.
☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(____).
☐ An additional filing fee has been calculated as shown below:

| | | | | | Small Entity | | | Not a Small Entity | |
|---|----------------------------------|-------|---------------------------------|---------------|--------------|-----------|----|--------------------|-----------|
| | Claims Remaining After Amendment | | Highest No. Previously Paid For | Present Extra | Rate | Add'l Fee | or | Rate | Add'l Fee |
| Total | | Minus | | | x \$25= | | | x \$50= | |
| Indep. | | Minus | | | x 100= | | | x \$200= | |
| First Presentation of Multiple Dep. Claim | | | | | +\$180= | | | +\$360= | |
| | | | | | Total | \$ | | Total | \$ |

Fee payment:

- ☐ A check in the amount of \$_____ is enclosed.
☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Date

2/10/06

Respectfully submitted,

Marc V. Richards
Marc V. Richards (Reg. No. 37,921)



I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

2-10-06

Date of Deposit

Signature

Our Case No. 11298/4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Romuald Pawluczyk

US Patent No. 6,975,891

Issue Date: **Dec. 13, 2005**

Serial No. 10/032,145

Filing Date: **December 21, 2001**

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Examiner: **Eric Frank Winakur**

Group Art Unit No. 3736

Title: **Raman Spectroscopic System with Integrating
Cavity**

**REQUEST FOR RECONSIDERATION OF PRIOR REQUEST FOR
RECONSIDERATION OF PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705(d)**

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

U.S. Patent No. 6,975,891 was issued on December 13, 2005. Pursuant to 35 U.S.C. § 154(b) the United States Patent and Trademark Office has calculated a patent term adjustment of 332 days. A copy of U.S. Patent No. 6,975,891 is included herewith as Exhibit A.

This instant Request for Reconsideration ("Instant Petition") is a request for reconsideration of the Request for Reconsideration of the Patent Term Adjustment filed June 27, 2005 ("First Petition"). In response to the First Petition, a Decision by the USPTO was mailed on September 27, 2005. (Exhibit B). That Decision held the decision as to the adjustment be held in abeyance until after the actual patent issue date. Applicant was given two months to file the Instant Petition requesting reconsideration of the First Petition. This Request for Reconsideration is being timely filed within the two month period. No fee is required, as indicated in the Decision, as the basis for the Instant Petition is the same as in the First Petition.

Applicant's Attorney believes that the patent term adjustment should be **673** days. For the reasons stated herein, reconsideration of this patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(d). Although applicants believe no fee is required, as noted in the attached Decision, please charge any additional fee required to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

The patent term adjustment for U.S. Patent No. **6,975,891** was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit C. As indicated by the PAIR system Patent Term Adjustment History, attached as Exhibit C, the total delay by the U.S. Patent Office was $509 + 16 = 525$ days and the total delay by the Applicant's Attorney was $96 + 97 = 193$ days. The difference is **332** days as indicated in Exhibit C and on the issued patent. Applicant's Attorney believes that omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for U.S. Patent No. **6,975,891** as described in detail below. Pursuant to 37 C.F.R §1.705(d), this

request for reconsideration is being filed within two months of the issue date of the above-referenced patent. Note that U.S. patent number **6,975,891** is not subject to a terminal disclaimer.

Period of adjustment pursuant to 37 C.F.R. § 1.703(b)

The period of adjustment pursuant to 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day (“the 3 year date”) after the date that is three years after the date on which the application was filed pursuant to 35 U.S.C. § 111(a).

The present application was filed on **December 21, 2001**, as evidenced by Exhibits A and C. The 3 year date determined pursuant to 37 C.F.R. § 1.703(b) is **December 21, 2004**. U.S. Patent Number **6,975,891** was issued on **December 13, 2005**, which is **357** days beyond the 3 year date. The non-overlapping period of adjustment pursuant to 37 C.F.R. § 1.703(f) is believed to be the **357** days beyond the 3-year date **minus** the overlapping **16** days delay due to issuance of patent more than 4 months after the issue fee payment, which equals **341** days. Accordingly, Applicant’s Attorney respectfully request re-calculation of the patent term adjustment to take this **341** days non-overlapping period delay into account.

Note the period of delay attributable to 1.703(b) (total pendency as noted in 69 Fed. Reg. 21704) overlaps with both the period of delay attributable to 1.703(a)(1) [**509** days] and the period of delay attributable to 1.703(a)(6) [**16** days]. However, pursuant to 1.703(f) and 69 Fed. Reg. 21704 (April 22, 2004), the calculated period of adjustment of **341** days, as calculated above, does not include any overlap with either of these periods, as the period of the **509** day delay terminated on July 14, 2004, which is prior to the 3 year date (see Exhibit C). Therefore, the additional **341** days adjustment as calculated here conforms with the USPTO rule that “days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with

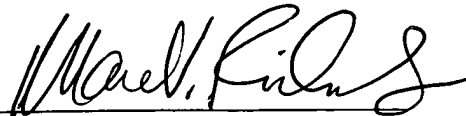
days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment.” (see Exhibit B, Decision, p.2).

Total patent term adjustment

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delay pursuant to 37 C.F.R. § 1.704. Thus, we believe that the patent term adjustment should be **866 (509+16+341)** days USPTO delay – **193 (96+97)** days Applicant delay = **673 DAYS**, instead of the **332** days indicated on the issued patent.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for U.S. patent number **6,975,891** may not be correct. Accordingly, Applicant’s Attorney respectfully requests the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact Applicant’s Attorney via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,



Marc V. Richards
Registration No. **37,921**
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|--|---|------------------------------|
| In re Application of: |) | |
| |) | |
| Romuald Pawluczyk |) | |
| |) | Examiner: Eric Frank Winakur |
| US Patent No. 6,975,891 |) | |
| |) | Group Art Unit No. 3736 |
| Issue Date: Dec. 13, 2005 |) | |
| |) | |
| Serial No. 10/032,145 |) | |
| |) | |
| Filing Date: December 21, 2001 |) | |
| |) | |
| Title: Raman Spectroscopic System with Integrating |) | |
| Cavity |) | |

REQUEST FOR RECONSIDERATION OF PRIOR REQUEST FOR
RECONSIDERATION OF PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705(d)

EXHIBIT B



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

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P.O. BOX 10395
CHICAGO IL 60610

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SEP 27 2005

In re Application of
Pawluczyk

Application No. 10/032,145

Filed: December 21, 2001

Atty. Dkt. No.: 11298/4

OFFICE OF PETITIONS

: DECISION ON APPLICATION

: FOR PATENT TERM

: ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)" filed June 27, 2005.

Applicants request that the Determination of Patent Term Adjustment be corrected from 413 days, as indicated on the Determination of Patent Term Adjustment mailed May 6, 2005, to an adjustment of 549 days.

The correct adjustment at the time of Notice of Allowance is 413 days. In accordance with 37 CFR 1.702(a)(1), an adjustment of 509 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. The adjustment was reduced 96 days in accordance with 37 CFR 1.705(b) for applicant's failure to engage in reasonable efforts to conclude prosecution for the period of time in excess of three months taken to reply to the non-final Office action mailed July 14, 2004.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date.

Applicants are advised that a decision as to the period of adjustment under 37 CFR 1.703(b) is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b).

Applicant is reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

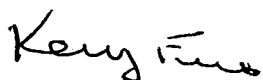
Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). See, also, *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Accordingly, the period of patent term adjustment as of the date of mailing of the Notice of Allowance is 413 days.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

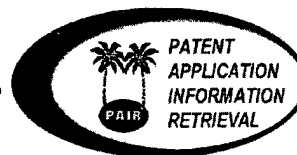
| | | |
|--|---|------------------------------|
| In re Application of: |) | |
| |) | |
| Romuald Pawluczyk |) | |
| |) | Examiner: Eric Frank Winakur |
| US Patent No. 6,975,891 |) | |
| |) | Group Art Unit No. 3736 |
| Issue Date: Dec. 13, 2005 |) | |
| |) | |
| Serial No. 10/032,145 |) | |
| |) | |
| Filing Date: December 21, 2001 |) | |
| |) | |
| Title: Raman Spectroscopic System with Integrating |) | |
| Cavity |) | |

REQUEST FOR RECONSIDERATION OF PRIOR REQUEST FOR
RECONSIDERATION OF PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705(d)

EXHIBIT C



United States Patent and Trademark Office

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PATENT APPLICATION INFORMATION RETRIEVAL


| Patent Term Adjustment (PTA) for publication number: 10/032,145 | | | |
|---|------------|-----------------------------|------|
| | | | Days |
| Filing or 371(c) Date: | 12-21-2001 | USPTO Delay (PTO): | 525 |
| Issue Date of Patent: | 12-13-2005 | Three Years: | - |
| Pre-Issue Petitions (days): | +0 | Applicant Delay (APPL): | 193 |
| Post-Issue Petitions (days): | +0 | Total PTA: | 332 |
| USPTO Adjustment (days): | +0 | Explanation of Calculations | |

Search Options

| |
|---|
| Image File Wrapper |
| File History |
| Maintenance Fees - Retrieve fees to pay |
| Maintenance Fees - View payment windows |
| Maintenance Statement - View 04 year payment window |
| Maintenance Statement - View 08 year payment window |
| Maintenance Statement - View 12 year payment window |
| Published Documents |

Maintenance Fees Available: Mon-Fri 5:30 AM to Midnight, Sat-Sun-Hol. 7:30 AM to 8:00 PM E.T.

| Patent Term Adjustment History | | | |
|--------------------------------|---|---------------|----------------|
| Date | Contents Description | PTO (days) | APPL (days) |
| 11-22-2005 | PTA 36 Months | | |
| 12-13-2005 | Patent Issue Date Used in PTA Calculation | 16 | |
| 11-07-2005 | Receipt into Pubs | ↑ | |
| 11-07-2005 | Dispatch to FDC | ↑ | |
| 11-07-2005 | Application Is Considered Ready for Issue | ↑ | |
| 07-27-2005 | Issue Fee Payment Verified | ↑ | |
| 10-21-2005 | Receipt into Pubs | | |
| 10-18-2005 | Mail Response to 312 Amendment (PTO-271) | | |
| 08-11-2005 | Statement Filed Indicating a Loss of Entitlement to Small Entity Status | | |
| 09-27-2005 | Petition Decision - Dismissed | | |
| 09-16-2005 | TC Return to Pubs | | |
| 08-26-2005 | Pubs Case Remand to TC | | |
| 08-26-2005 | Response to Amendment under Rule 312 | | |
| 07-14-2005 | Amendment after Notice of Allowance (Rule 312) | | 97 |
| 08-22-2005 | Receipt into Pubs | | ↑ |
| 08-11-2005 | Issue Fee Payment Received | | ↑ |
| 07-27-2005 | Reverse Issue Fee | | ↑ |
| 07-27-2005 | Petition Entered | | ↑ |
| 07-27-2005 | Issue Fee Payment Received | | ↑ |
| 06-29-2005 | Mail Miscellaneous Communication to Applicant | | ↑ |
| 06-29-2005 | Miscellaneous Communication to Applicant - No Action Count | | ↑ |

| | | | |
|------------|--|-----|----|
| 06-06-2005 | Workflow - File Sent to Contractor | | ↑ |
| 05-06-2005 | Mail Notice of Allowance | | ↑ |
| 05-06-2005 | Mail Examiner's Amendment | | ↑ |
| 05-05-2005 | Examiner's Amendment Communication | | ↑ |
| 05-05-2005 | Notice of Allowance Data Verification Completed | | ↑ |
| 05-05-2005 | Case Docketed to Examiner in GAU | | ↑ |
| 02-17-2005 | IFW TSS Processing by Tech Center Complete | | ↑ |
| 02-17-2005 | Date Forwarded to Examiner | | ↑ |
| 01-18-2005 | Response after Non-Final Action | | 96 |
| 01-18-2005 | Request for Extension of Time - Granted | | ↑ |
| 01-18-2005 | Workflow incoming amendment IFW | | ↑ |
| 07-14-2004 | Mail Non-Final Rejection | 509 | ↑ |
| 07-12-2004 | Non-Final Rejection | ↑ | |
| 06-29-2004 | Case Docketed to Examiner in GAU | ↑ | |
| 07-28-2003 | Information Disclosure Statement (IDS) Filed | ↑ | |
| 08-05-2002 | Information Disclosure Statement (IDS) Filed | ↑ | |
| 07-22-2002 | Information Disclosure Statement (IDS) Filed | ↑ | |
| 08-11-2002 | Case Docketed to Examiner in GAU | ↑ | |
| 07-30-2002 | Transfer Inquiry to GAU | ↑ | |
| 07-24-2002 | Application Dispatched from OIPE | ↑ | |
| 07-22-2002 | Application Is Now Complete | ↑ | |
| 06-11-2002 | Payment of additional filing fee/Preexam | ↑ | |
| 06-11-2002 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic | ↑ | |
| 03-14-2002 | Notice Mailed--Application Incomplete--Filing Date Assigned | ↑ | |
| 03-08-2002 | IFW Scan & PACR Auto Security Review | ↑ | |
| 01-24-2002 | IFW Scan & PACR Auto Security Review | ↑ | |
| 12-21-2001 | Initial Exam Team nn | ↑ | |